

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 213 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 13-26-5-2, AS AMENDED BY P.L.221-2007,
- 4 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2008]: Sec. 2. A district may do the following:
- 6 (1) Sue or be sued.
- 7 (2) Make contracts in the exercise of the rights, powers, and
- 8 duties conferred upon the district.
- 9 (3) Adopt and alter a seal and use the seal by causing the seal to
- 10 be impressed, affixed, reproduced, or otherwise used. However,
- 11 the failure to affix a seal does not affect the validity of an
- 12 instrument.
- 13 (4) Adopt, amend, and repeal the following:
- 14 (A) Bylaws for the administration of the district's affairs.
- 15 (B) Rules and regulations for the following:
- 16 (i) The control of the administration and operation of the
- 17 district's service and facilities.
- 18 (ii) The exercise of all of the district's rights of ownership.
- 19 (5) Construct, acquire, lease, operate, or manage works and obtain
- 20 rights, easements, licenses, money, contracts, accounts, liens,
- 21 books, records, maps, or other property, whether real, personal, or
- 22 mixed, of a person or an eligible entity.
- 23 (6) Assume in whole or in part any liability or obligation of:
- 24 (A) a person;

- 1 (B) a nonprofit water, sewage, or solid waste project system;
 2 or
 3 (C) an eligible entity;
 4 including a pledge of part or all of the net revenues of a works to
 5 the debt service on outstanding bonds of an entity in whole or in
 6 part in the district and including a right on the part of the district
 7 to indemnify and protect a contracting party from loss or liability
 8 by reason of the failure of the district to perform an agreement
 9 assumed by the district or to act or discharge an obligation.
 10 (7) Fix, alter, charge, and collect reasonable rates and other
 11 charges in the area served by the district's facilities to every
 12 person whose premises are, whether directly or indirectly,
 13 supplied with water or provided with sewage or solid waste
 14 services by the facilities for the purpose of providing for the
 15 following:
 16 (A) The payment of the expenses of the district.
 17 (B) The construction, acquisition, improvement, extension,
 18 repair, maintenance, and operation of the district's facilities
 19 and properties.
 20 (C) The payment of principal or interest on the district's
 21 obligations.
 22 (D) To fulfill the terms of agreements made with:
 23 (i) the purchasers or holders of any obligations; or
 24 (ii) a person or an eligible entity.
 25 (8) Except as provided in section 2.5 of this chapter, require
 26 connection to the district's sewer system of property producing
 27 sewage or similar waste, and require the discontinuance of use of
 28 privies, cesspools, septic tanks, and similar structures if:
 29 (A) there is an available sanitary sewer within three hundred
 30 (300) feet of the property line;
 31 (B) the district has given written notice by certified mail to the
 32 property owner at the address of the property at least ninety
 33 (90) days before a date for connection to be stated in the
 34 notice; and
 35 (C) if the property is located outside the district's territory:
 36 (i) the district has obtained and provided to the property
 37 owner (along with the notice required by clause (B)) a letter
 38 of recommendation from the local health department that
 39 there is a possible threat to the public's health; and
 40 (ii) if the property is also located within the extraterritorial
 41 jurisdiction of a municipal sewage works under IC 13-9-23
 42 or a public sanitation department under IC 36-9-25, the
 43 municipal works board or department of public sanitation
 44 has acknowledged in writing that the property is within the
 45 municipal sewage works or department of public sanitation's
 46 extraterritorial jurisdiction, but the municipal works board

1 or department of public sanitation is unable to provide sewer
2 service.

3 However, a district may not require the owner of a property
4 described in this subdivision to connect to the district's sewer
5 system if the property is already connected to a sewer system that
6 has received an NPDES permit and has been determined to be
7 functioning satisfactorily.

8 (9) Provide by ordinance for reasonable penalties for failure to
9 connect and also apply to the circuit or superior court of the
10 county in which the property is located for an order to force
11 connection, with the cost of the action, including reasonable
12 attorney's fees of the district, to be assessed by the court against
13 the property owner in the action.

14 (10) Refuse the services of the district's facilities if the rates or
15 other charges are not paid by the user.

16 (11) Control and supervise all property, works, easements,
17 licenses, money, contracts, accounts, liens, books, records, maps,
18 or other property rights and interests conveyed, delivered,
19 transferred, or assigned to the district.

20 (12) Construct, acquire by purchase or otherwise, operate, lease,
21 preserve, and maintain works considered necessary to accomplish
22 the purposes of the district's establishment within or outside the
23 district and enter into contracts for the operation of works owned,
24 leased, or held by another entity, whether public or private.

25 (13) Hold, encumber, control, acquire by donation, purchase, or
26 condemnation, construct, own, lease as lessee or lessor, use, and
27 sell interests in real and personal property or franchises within or
28 outside the district for:

29 (A) the location or protection of works;

30 (B) the relocation of buildings, structures, and improvements
31 situated on land required by the district or for any other
32 necessary purpose; or

33 (C) obtaining or storing material to be used in constructing and
34 maintaining the works.

35 (14) Upon consent of two-thirds (2/3) of the members of the
36 board, merge or combine with another district into a single district
37 on terms so that the surviving district:

38 (A) is possessed of all rights, franchises, and authority of the
39 constituent districts; and

40 (B) is subject to all the liabilities, obligations, and duties of
41 each of the constituent districts, with all rights of creditors of
42 the constituent districts being preserved unimpaired.

43 (15) Provide by agreement with another eligible entity for the
44 joint construction of works the district is authorized to construct
45 if the construction is for the district's own benefit and that of the
46 other entity. For this purpose the cooperating entities may jointly

appropriate land either within or outside their respective borders if all subsequent proceedings, actions, powers, liabilities, rights, and duties are those set forth by statute.

(16) Enter into contracts with a person, an eligible entity, the state, or the United States to provide services to the contracting party for any of the following:

(A) The distribution or purification of water.

(B) The collection or treatment of sanitary sewage.

(C) The collection, disposal, or recovery of solid waste.

(17) Make provision for, contract for, or sell the district's byproducts or waste.

~~(18) Exercise the power of eminent domain:~~

~~(19)~~ **(18)** Remove or change the location of a fence, building, railroad, canal, or other structure or improvement located within or outside the district. If:

(A) it is not feasible or economical to move the building, structure, or improvement situated in or upon land acquired; and

(B) the cost is determined by the board to be less than that of purchase or condemnation;

the district may acquire land and construct, acquire, or install buildings, structures, or improvements similar in purpose to be exchanged for the buildings, structures, or improvements under contracts entered into between the owner and the district.

~~(20)~~ **(19)** Employ consulting engineers, superintendents, managers, and other engineering, construction, and accounting experts, attorneys, bond counsel, employees, and agents that are necessary for the accomplishment of the district's purpose and fix their compensation.

~~(21)~~ **(20)** Procure insurance against loss to the district by reason of damages to the district's properties, works, or improvements resulting from fire, theft, accident, or other casualty or because of the liability of the district for damages to persons or property occurring in the operations of the district's works and improvements or the conduct of the district's activities.

~~(22)~~ **(21)** Exercise the powers of the district without obtaining the consent of other eligible entities. However, the district shall:

(A) restore or repair all public or private property damaged in carrying out the powers of the district and place the property in the property's original condition as nearly as practicable; or

(B) pay adequate compensation for the property.

~~(23)~~ **(22)** Dispose of, by public or private sale or lease, real or personal property determined by the board to be no longer necessary or needed for the operation or purposes of the district."

Page 2, after line 42, begin a new paragraph and insert:

"SECTION 4. IC 13-26-5-6 IS REPEALED [EFFECTIVE JULY 1,

- 1 2008].".
- 2 Renumber all SECTIONS consecutively.
(Reference is to ESB 213 as printed February 15, 2008.)

Representative Walorski